UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1998/SR.19
1 April 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 27 March 1998, at 10 a.m.

Chairman: Mr. SELEBI (South Africa)

later: Mr. HYNES (Canada)
(Vice-Chairman)

later: Mr. SELEBI (South Africa)
(Chairman)

CONTENTS

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MEXICO

INDIGENOUS ISSUES

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-11406 (E)

The meeting was called to order at 10.05 a.m.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MEXICO

1. Ms. MORENO (Mexico) said that the promotion and protection of the rights of indigenous peoples formed an essential part of her Government's agenda. A multi-ethnic society, Mexico had inherited a rich culture which was an integral part of its present and its future. Diversity was a characteristic of the country. There were 56 ethnic groups speaking 71 indigenous languages. Each group had its own identity and culture, of a richness that contrasted strongly with the continuing poverty, backwardness and marginalization experienced by many of the country's indigenous communities.

2. Her Government was therefore committed to promoting economic and social development, particularly in indigenous areas while, at the same time, strengthening the rule of law. Poverty, injustice and marginalization were part of the current Mexican reality, but her Government was determined that they should not be part of the country's destiny. All Mexicans had the right to aspire to the same opportunities and they should have the possibility of exercising that right. Article 4 of the 1992 constitutional reform enshrined those principles, but it did not go far enough. The President had recently put a series of reforms before the Senate, as part of the process of achieving a just and honourable peace in Chiapas through the San Andrés Accords. Her Government was committed to the Accords and believed that the conflict should be resolved without violence, through dialogue and negotiation.

3. The President had proposed a new and constructive relationship between the indigenous people and the State. It was a new social pact that would redress the inadequate representation of indigenous people in Mexico's democratic life. It gave legal force to the right of indigenous communities to free association, so that they could participate in the promotion of their economic and social development. The marginalization of the indigenous people and the debt owed them by the Mexican nation were a 500-year-old problem that could not be resolved in a few months.

4. Mexico had been the first country to establish a multicultural and multilingual policy, incorporating indigenous language teaching in educational programmes and providing interpretation in the law courts. The National Indigenous Institute had existed for over half a century. Mexico was also the headquarters of the Inter-American Indigenous Institute.

5. There had been wide consultation on legislation concerning indigenous human rights issues. Mexico supported the activities of the International Decade of the World's Indigenous People, the proposal to establish a permanent forum for indigenous peoples within the United Nations system and the adoption of a declaration on the rights of indigenous peoples. It was also one of the few States parties to the 1989 Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of the International Labour Organization (ILO).

6. Some non-governmental organizations (NGOs) had attributed the poverty of the indigenous people, the agrarian conflicts in Chiapas and the uprising of the Ejército Zapatista de Liberación Nacional (EZLN) to economic restructuring

in general and the North American Free Trade Agreement in particular. That was not surprising. The Chiapas conflict had been manipulated and a complex issue had been oversimplified and politicized in order to demonize free trade and globalization. Her Government invited the NGOs to become part of the solution in Chiapas, not part of the problem.

7. Mexico undoubtedly suffered from a searing poverty that was offensive to all its citizens. Undoubtedly, also, the indigenous peoples were victims of historic injustices. It was not a recent phenomenon, however; still less was it a result of the efforts and sacrifices made to restructure the economy and become competitive in the modern world. Indeed, the strategy of dynamic and sustained economic growth had produced extremely positive results and, despite the 1994 crisis, the economy had grown.

8. Many programmes had been launched to improve the education and health of indigenous communities. Social welfare expenditure had risen from 284,019 million pesos in 1997 to 352,218 million pesos in 1998, of which 41 per cent went on education, 23 per cent on health and 21 per cent on social security. The education budget in Chiapas had risen by 32 per cent from 1996 to 1997. In 1997, 18 colleges had opened there and a technological university had been established at Ocosingo. Of the 7.5 million free textbooks distributed, 390,000 were in indigenous languages. Chiapas received a higher proportion of federal poverty-alleviation funds than any other State.

9. Mexico was going through a stage of fast-moving democratic modernization. The President's proposed reforms would need to be approved by two thirds of Congress and a majority of the State legislatures. Since both bodies were composed of properly elected representatives of the various political parties, the proposed reforms to the Constitution would be an authentic expression of the popular will. It was to be hoped that, through dialogue and cooperation, all Mexicans, including the Zapatistas, would show enough political maturity to establish a new relationship between the State and the indigenous peoples.

INDIGENOUS ISSUES (agenda item 23) (E/CN.4/1998/11 and Add.1, 106 and Corr.1 and 107; E/CN.4/Sub.2/1997/14, 15 and 17 and Corr.1; A/52/509)

10. Mr. CHAVEZ (Peru) said that, as was to be expected of a multi-ethnic and multicultural society, indigenous people in Peru enjoyed special protection for their rights. All had the right to use their own language: Quechua and Aymara, for instance, were official languages in the areas where they predominated. Peru contained 72 ethno-linguistic groups, more than any other on the American continent. Indigenous communities had a legal status, were autonomous and had jurisdiction within their spheres of responsibility. They enjoyed full ownership of their lands.

11. At the national level, a ministry for the promotion of women and human development had been established with a view to helping the most vulnerable sectors of society, including indigenous people. Peru participated in all international bodies dealing with indigenous issues, particularly the Treaty for Amazonian Cooperation, which had programmes to help indigenous populations in the South American rainforest, of which Peru possessed the second largest area. Peru was also one of the few countries to have ratified

the 1989 ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, which currently provided the best protection for indigenous peoples' rights.

12. In the light of Peru's excellent record on such rights, his delegation attached particular importance to the activities of the working group to elaborate a draft United Nations declaration on the rights of indigenous peoples, as contained in its report (E/CN.4/1998/106). Significant progress had been made with a difficult task. The initial success showed that, through open and constructive dialogue, it was possible to reach the desired objective.

13. Like other Governments, his own had been carefully considering whether a permanent forum for indigenous peoples should be established. No final decision had been reached, but the nature of such a forum should continue to be discussed, with the participation of indigenous people. The priority issue was the definition of the forum's mandate since, pending such a definition, many Governments would view the establishment of a forum with considerable caution. That, in turn, depended largely on the final form taken by the draft declaration on the rights of indigenous peoples.

14. It would be premature to state a preference for the way in which a permanent forum would fit into the Organization's structure. As for funding, his delegation believed that it should come from the United Nations regular budget, without prejudice to any voluntary contributions that it might attract. In view of current budgetary restrictions, additional resources could not be contemplated and the costs would have to be met by the elimination of less important activities.

15. Mr. ZOZULYA (Ukraine) said that the protection and promotion of the rights of indigenous peoples contributed to the stability of multi-ethnic societies, especially in countries with economies in transition. A strong declaration on the rights of indigenous peoples and the establishment of a permanent forum within the United Nations system were the two central goals of the International Decade of the World's Indigenous People. Attempts by the representatives of indigenous people or of NGOs to bring charges against Governments in the working group or to raise specific issues should be resisted.

16. Drafting the declaration seemed to be a complex and time-consuming affair, since there was still no consensus on some important provisions. It was an example of non-productivity in the Commission's work, given that a draft declaration had been elaborated within the Sub-Commission in 1985 and approved in 1994. Governmental delegations had started work on the draft, however, only in 1995.

17. He reiterated his delegation's view that the ethnic groups should be classified. At very least a distinction should be made between indigenous groups that led a tribal way of life and those that were integrated into society. In the case of the latter, the issue of self-identification of a people as indigenous could be valid only as an additional, and not as fundamental, criterion. As it stood, the main flaw of the draft was that it

was heavily weighted towards tribal people and could not, as currently worded, be considered universal. It was permeated by isolationist tendencies and condemned the assimilation and integration of indigenous people.

18. The lack of a definition of "indigenous people" was yet another shortcoming. The imbalance should be rectified and the text brought into line with internationally recognized human rights standards and national laws. That would make it a declaration of the rights of indigenous peoples in post-colonial conditions and a logical development of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The rights of indigenous peoples in non-colonial situations would thus be considered within the context of internal self-determination and autonomy.

19. In view of the sensitivity of the issue, the declaration should also include provisions strictly prohibiting any action to dismember or impair the territorial integrity or political union of sovereign States. No interpretation of the declaration running counter thereto should be permitted. His delegation also supported the view that the use of the term "people" in the declaration should have no implications regarding the right to self-determination or any other rights that might be attached to the term under international law. Excessive politicization should be avoided in the activities of the Working Group on Indigenous Populations.

20. Ukraine faced some great difficulties - legislative, organizational and financial - in connection with the resettlement of indigenous people deported from the Crimea during the Soviet totalitarian period, particularly the Crimean Tatars, the Karaites and the Krymchaks. His Government planned to allocate an additional $100 million from the State budget for the period 1997-2000, but that would not be enough to ensure normal living conditions for the resettled people. While it was grateful for the assistance received from various international organizations and would welcome any international assistance, charitable or governmental, to reduce the hardship of the resettled peoples, his Government was well aware that funding was its responsibility and would depend on the success of the economic reforms in the country.

21. Mr. PLORUTTI (Argentina) said that the working group elaborating the draft declaration on the rights of indigenous peoples had gone some way towards reaching consensus, although the task was a difficult one, given the differences regarding the criteria to be adopted. In that connection, it was worth noting that negotiations on an inter-American declaration on the rights of indigenous peoples were well advanced and might form a useful model for those drafting the United Nations declaration.

22. The other main objective of the International Decade of the World's Indigenous People - the permanent forum - should, like the draft declaration, be approached in a spirit of international cooperation and real commitment. Substantial progress had been made at the second meeting on the topic in 1997. It had been agreed that the forum should have a wide mandate with extensive participation by indigenous peoples. One of its main functions would be to set strategies for developing indigenous communities. It should function at a high level within the United Nations, under the aegis of the Economic and Social Council or of the Commission. The time had come to define the mandate,

a task that could be carried out either by the Working Group on Indigenous Peoples, with its wide experience, or by another group set up by the Commission. As for indigenous representation in the forum, his Government agreed with those of other Latin American countries that delegations should be composed of both government representatives and elected representatives of the indigenous people.

23. Argentina was committed to the protection of the rights of indigenous peoples as demonstrated by the 1994 constitutional reform which provided for the cultural, educational, legal and ownership rights of indigenous people. Their lands were inalienable and they would be ceded more land in the future for development and would be involved in the management of natural resources.

24. The national plan for indigenous communities had three basic aspects. One was the restitution of land and the provision of further land for development, through a plan of measurement and assistance. The other aspects of the plan were the legal recognition of indigenous organizations and a programme of education to strengthen the identity of the indigenous communities. The educational plan providing special programmes and the necessary infrastructure for a better education had already been implemented. Such measures were only the first step, but Argentina was committed to the cause of its indigenous peoples and would do everything in its power to achieve the objectives of the Decade.

25. Mr. NAMUNCURA (Chile) said that the adoption of the declaration on the rights of indigenous peoples and the establishment of a permanent forum would constitute major steps forward in the promotion and protection of indigenous peoples' rights, which had for many years been disregarded in his own country, with consequent serious effects on the development of indigenous people, who had long lived in conditions of extreme poverty and social marginalization.

26. Chile's return to democracy had been accompanied by a firm political will on the part of successive Governments to eliminate extreme poverty and social marginalization as soon as possible. One of the measures adopted had been the Indigenous Law of 1993 which had established the National Corporation for Indigenous Development. The Corporation was composed of an equal number of representatives of the Government and of the Chilean indigenous communities and played a role in setting social policy for the indigenous people.

27. Chile had been active in international initiatives in favour of indigenous people, and had hosted the second workshop on the permanent forum for indigenous people. It was to be hoped that the discussions held at that workshop would result in the early establishment of the permanent forum. His delegation had participated in the working group on the draft declaration on the rights of indigenous peoples, and, although there were still some difficulties remaining and greater effort and flexibility were required, progress had been made. His delegation would continue to work with government and indigenous representatives alike towards the completion of the draft declaration before the end of the International Decade.

28. His delegation welcomed the selection of "indigenous education" as the main topic for discussion in the Working Group on Indigenous Populations and

expressed the conviction that the Office of the High Commissioner could make a significant contribution towards the promotion of the rights of indigenous peoples.

29. Mr. FARRELL (Observer for New Zealand) said that, three years after the General Assembly had launched the International Decade of the World's Indigenous People, his delegation was heartened by the progress made in mainstreaming indigenous issues within the major programmes and activities of the United Nations. It urged those agencies and departments that had not yet taken specific steps to honour their commitment to the world's indigenous people to do so.

30. His Government had supported the Decade's goals by making a contribution to the Voluntary Fund for the Decade and the Voluntary Fund for Indigenous Populations. However, concern had been expressed about the standard of management and administration of voluntary funds in the field of human rights and his delegation looked forward to an early follow-up to the recommendations made by the Board of Trustees. Perhaps the most important of the many activities under the Decade was the standard-setting exercise being carried out in the intergovernmental working group on the draft declaration on the rights of indigenous peoples. The contribution of indigenous people and their organizations was fundamental to its success.

31. Domestically, New Zealand had undertaken a number of activities in furtherance of the Decade. A committee of Maori organizations had been established to coordinate efforts, in consultation with the Ministry of Maori Development. Priority had been given to Maori language development and education. In the health sector, New Zealand had hosted the Third Worldwide Healing Our Spirits Conference on indigenous health. The Ministry of Maori Development was beginning a mid-point review of activities under the Decade. Particular focus would be given to the issue of cultural heritage, including Maori language development and the Government was working to identify how the educational system could become more responsive to the needs of Maori.

32. The Treaty of Waitangi was fundamental to the relationship between the Government and Maori. The Government had two key objectives: to address socio-economic disparities between Maori and non-Maori and to reach fair settlements to grievances arising from breaches of the Treaty. Progress on the Treaty claims settlement process had been marked by several major agreements with large tribal groups. The settlement of claims under the Treaty aimed to acknowledge responsibility and atone for past breaches, helping to restore to indigenous New Zealanders their economic base and cultural identity. Recent changes in the electoral system had significantly increased Maori political representation and Maori were currently represented in Parliament on a basis fully equivalent to their population.

33. Ms. TALVET (Observer for Estonia) said that four years of the International Decade had already passed, and the draft declaration on the rights of indigenous peoples had been before the Commission's working group for three years. The work was far from finished; at its third session, the working group had adopted only two articles. The extensive debates on many of the principles of the draft declaration had, however, been useful in clarifying positions and in developing a climate of mutual trust.

34. Concerning the establishment of a permanent forum for indigenous peoples, her delegation took the view that the need for such a forum was self-evident and required no further discussion. The modalities of its functioning needed careful consideration, however. Only with the patience, imagination and good will of all parties could the forum come into being before the end of the Decade. To further the process, the Commission might consider convening an ad hoc drafting group to come up with concrete proposals. Informal consultations among Governments as well as the good offices of the High Commissioner in her role as coordinator of the International Decade might facilitate the task.

35. Mr. RAMOS VELOZ (International Labour Office) said that ILO, which was responsible for the only legally binding international instruments dealing directly with the rights of indigenous and tribal peoples, was pleased to announce that the Netherlands and Fiji had ratified its Convention No. 169, bringing the total number of ratifying countries to 12. ILO had been following the work on the draft United Nations declaration on the rights of indigenous peoples in the spirit of the principle that new international standards should be consistent with earlier ones. It was pleased to observe the development of European Union policy on cooperation with those peoples.

36. The technical cooperation project to promote ILO policy on indigenous and tribal peoples had received a two-year extension as a result of funding by the Danish International Development Aid agency (DANIDA). Some progress had been noted in Asia and, in Africa, the project was exploring a number of possibilities for cooperation with Governments and trade unions to raise awareness of the situation of indigenous peoples in South Africa, Kenya and Cameroon.

37. Among other projects, ILO was contributing to the implementation of the Agreement on Identity and Indigenous Rights included in the Global Peace Accord signed by the Government of Guatemala and the rebels in December 1996, including the application of Convention No. 169, which Guatemala had ratified that same year.

38. ILO would continue working with United Nations bodies and agencies to strengthen cooperation and coordination in order to improve the situation of indigenous and tribal peoples around the world. Each of the various parts of the United Nations system would contribute to that important undertaking in accordance with its own mandate, but they all shared the common objective.

39. Mr. WEBSTER (World Health Organization) said that WHO policy was about people and about respect for their values, capacities and active contribution to and participation in health development; it was about health as both a human right and a human obligation. The member States of WHO were committed to the International Decade of the World's Indigenous People and, at the World Health Assembly in May 1998, would review progress in finalizing a comprehensive programme of action for the Decade.

40. At the Third Worldwide Healing Our Spirit Conference in New Zealand, participants had made a number of recommendations to WHO concerning its actions in the area of indigenous health, mainly in terms of increased

participation of indigenous people in decision-making, programming and strategies. In the Pan American Health Organization, the Health of Indigenous People Initiative had been gathering momentum since 1993.

41. Thus far, the Decade had provided a number of lessons. The congruity between the health needs of indigenous people and the WHO "Health for all" strategy for the twenty-first century was striking. As the Decade gained momentum, so did the concern of the international community to ensure social justice and equity in access to health care. Indigenous people perceived health as part of a whole. Human existence was seen as part of the environment, and life included important spiritual dimensions.

42. Thousands of years of indigenous culture often revealed healing methods that transcended western science. All over the world, there had been a renaissance of those methods as well as efforts to devise social mechanisms whereby the two systems could best complement each other. An impressive range of constitutional and legislative tools had emerged in the process of democratization, along with health policies and research and development initiatives linked to local health systems. There was also considerable activity in the academic sector.

43. WHO fully intended to continue its efforts to remove all barriers to equitable health in partnership with indigenous people and with the international community.

44. Mrs. NOGUEROL ALVAREZ (Observer for Spain) said that the main objective of her country's strategy for cooperation with indigenous peoples was to support all processes for their sustainable self-development whereby they were able to participate in decisions that affected them directly and which, since they implemented those decisions, were based on indigenous culture and appropriate for their environment. Its cooperation programmes with the Latin American States also included projects aimed at indigenous peoples. Spain was vice-chair of the Development Fund for the Indigenous Peoples of Latin America and the Caribbean.

45. Her delegation reiterated its support for the establishment of a permanent forum for indigenous people within the United Nations system, which should have a broad mandate and be financed from the regular budget. One of its main functions would be to define development strategies for indigenous peoples that would guide the design of programmes and projects and would harmonize with national, regional and global policy. The forum could also coordinate the activities of Governments, the specialized agencies and experts on indigenous affairs.

46. One of the most essential aspects was certainly the establishment of a legal and political framework for the forum. Her Government believed that full participation of the indigenous peoples in decision-making was fundamental for its success. Each State with indigenous populations would select two delegates to its plenary meetings, one representing the Government and the other designated by the indigenous peoples. The forum would also have an assembly with a limited number of members (between 13 and 18) composed of

equal numbers of governmental and indigenous representatives, taking into account the criteria of the equitable geographical distribution of indigenous peoples throughout the world.

47. Mr. VOYER (Indian Law Resource Centre) said that indigenous representatives at the United Nations had generally taken the view that the draft declaration should be adopted unchanged. At the last session of the working group, however, several representatives of States had asked indigenous representatives to negotiate on the text of the draft declaration and had proposed specific changes.

48. In deciding how to proceed within the working group, the goal of the drafting process should be clarified. As the indigenous groups saw it, the goal was for the General Assembly to proclaim the strongest and most effective declaration that could actually be adopted by a consensus of Member States. It was the Member States that would vote on the Declaration in the General Assembly. It should also be understood that the indigenous representatives were in no position to negotiate a final text; that the matter involved the fundamental human rights of indigenous peoples and that a declaration should in no case result in limiting those fundamental rights, which were not negotiable.

49. His organization was thus willing to join in an ethical discussion with the representatives of States to bring about the strongest possible declaration that the General Assembly would adopt. If proposed changes were unacceptable, he would so inform the Governments. If discussions on the draft declaration continued, a text was likely to emerge at some future point in time that would be substantially changed from the current one. The indigenous representatives would then have to decide whether or not to support that version and urge countries to adopt it. If the revised text was the best that could possibly be achieved, then the indigenous peoples and organizations should urge its adoption.

50. Ms. OLGUIN (International Indian Treaty Council) said that true partnership was based on mutual recognition and joint decision-making. Indigenous peoples had yet to see such partnership implemented within the national systems in which they lived or incorporated comprehensively and formally into the process of international standard-setting. For example, the recognition of the indigenous peoples' right to development, land rights and right to self-determination had not been incorporated into the Convention on Biological Diversity.

51. That Convention recognized the indigenous peoples' contributions and traditional knowledge but without any corresponding mechanism to safeguard their fundamental rights and protect that knowledge from unwanted commercial exploitation under the mantle of so-called benefit sharing. Commercial appropriation of biological resources and non-sustainable development practices imposed by States and corporations continued unabated, with a catastrophic impact on such problem areas as human rights, the environment, development and health.

52. As yet, there had been little progress regarding the permanent forum for indigenous peoples, a central objective of the Decade. Her organization

supported the proposal by the Government of Denmark to create an open-ended ad hoc group to draw up a draft mandate for the permanent forum. Another key objective was the adoption of the draft declaration on the rights of indigenous peoples and her organization supported the adoption of the text in its current form, with its unqualified use of the term "peoples" and its recognition of the internationally affirmed right to self-determination and of traditional land rights.

53. Mr. ROMO (Franciscans International) said that the failure of many States to recognize in their domestic legislation the rights of the Indian peoples and to respect their systems, customs and traditions still generated major conflicts and even wars. For eight years he had been working in Chiapas in Mexico with the Mayas whose rights were not properly respected. The agreements which the Government concluded with the indigenous peoples, such as the San Andrés Peace Accords with the EZLN, were simply not fulfilled.

54. The particular concern of his organization was in respect of areas, preserved for generations by Indian values and ways of life, where economic systems were preferred to those values because of an illegitimate interpretation of development and progress. It was noteworthy how easily States changed their basic constitutional laws in order to support so-called progress, and the capital flows underpinning it, in the process destroying Indian territories and communal production systems and flouting not only the will of the Indians but also their dignity.

55. Indian systems of justice were likewise underestimated or simply ignored by the legal systems of States which applied their laws without concern even for the language spoken by the Indians. The manifest consequences were the systematic abuse of authority and impunity. Recognition of the rights of jurisdiction of the Indian peoples would guarantee them the full access to justice to which they were entitled by the Universal Declaration of Human Rights.

56. Lack of access to the communications media by the Indian peoples hampered, or indeed prevented, the free exchange of ideas, experience and prospects for the future. Their lives were destroyed by military occupation, and their lands, especially those they considered sacred, were invaded. On 22 December 1997, 45 Tzotzil Indians, most of them women and children, had been massacred in Mexico, and crimes committed every day against indigenous leaders and the population at large went unpunished. His organization thus supported the establishment of a permanent forum for indigenous peoples at the highest level of the United Nations.

57. Ms. PARKER (International Educational Development) said that the situation of the indigenous peoples of Mexico continued to deteriorate following the December 1997 massacre of Tzotzil Indians in Chiapas. Although the Government of Mexico had tried to distance itself from the so-called paramilitary groups involved, eyewitnesses asserted that those groups were directly related to the national military and State police forces, and contradictions apparent in Government-produced reports supported that assertion.

58. Chiapas was under increasing military occupation and the lives of the indigenous peoples there was daily becoming more precarious. Two groups were particularly affected: those forcibly relocated or displaced by the "paramilitary" groups and national armed forces and women who were the victims of sexual aggression and intimidation on the part of military forces.

59. Resolution of the situation required effective respect for the demands of the indigenous peoples of Mexico, beginning with a withdrawal of military and paramilitary forces from Chiapas and other areas, implementation of the San Andrés Accords on the status of Indian peoples in Mexico, reactivation of the dialogue between the Government and the EZLN and respect for the constitutional reforms proposed by the Government Commission (COCOPA), in particular those regarding indigenous peoples.

60. In March 1998, 109 Indian nations in Alaska had written to President Clinton urging that weapons testing involving depleted uranium should not take place on their lands. Nevertheless, on 17 March 1998, two B61-11 nuclear bombs containing depleted uranium were dropped on the Fort Wainwright range within the Stuart Creek watershed of the Indian people. The test violated both the letter and the spirit of the Comprehensive Test-Ban Treaty and the non-proliferation treaties.

61. In Hawaii, the United States and Hawaiian State governments were actively seeking to suppress the sovereignty movement of the Na Kanaka Maoli people, which had never directly relinquished its claim to sovereignty as a people or over its national lands. In the 1890s, agents of the United States Government had overthrown the Kingdom of Hawaii under threat of militarily annihilating the people and, when President Cleveland had sought to restore the Kingdom, the United States Congress had refused and had illegally annexed it.

62. In 1945, the Kingdom of Hawaii had been included as a trusteeship territory under article 73 of the Charter of the United Nations, so the United States had been under an obligation to assist it in restoring its independence; instead, it had unilaterally held statehood elections in which thousands of non-Hawaiian immigrants from the United States had voted.

63. The United States and Hawaiian State Governments had repeatedly committed gross human rights violations against the Kanaka Maoli people, whose elders had, on 20 February 1998, named a King. The international community should direct its attention to the restoration of the sovereignty of the Kingdom of Hawaii.

64. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that the Government of Guatemala was to be commended for endeavouring to put an end to discrimination against indigenous peoples through legal reforms and other means. The United Nations Verification Mission (MINUGUA) had contributed to the process by monitoring human rights violations involving indigenous peoples and assisting State and private institutions in taking action to ensure fulfilment of the commitments under human rights agreements.

65. Nevertheless, the current situation of the indigenous peoples in Guatemala indicated obstacles and limitations to the peace process which had to be overcome by the concerted and persistent effort of the Government, the indigenous peoples and all the national institutions and social sectors. One of the most disturbing elements was the low level of awareness, exacerbated by the low level of literacy, among indigenous peoples regarding the content of the peace agreements, especially in rural areas. The Agreement on Indigenous Rights had been translated into only some of the indigenous languages.

66. Noting that the Working Group on Indigenous Populations would be taking up as one of its main themes during the current year the question of education and languages, she said that the Government of Guatemala should be encouraged to place special emphasis on educational programmes for the indigenous peoples. It was important to empower local organizations of indigenous peoples, provide them with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics, and to ensure that no decisions directly relating to their rights and interests were taken without their informed consent. The current situation in Guatemala required further review by the Commission, so that the necessary assistance and cooperation could be provided to the Government and people.

67. Mr. Hynes (Canada), Vice-Chairman, took the Chair.

68. Mr. PARY (Indian Movement "Tupaj Amaru") said that the draft declaration on the rights of indigenous peoples, the drafting of which had begun 15 years previously, was facing particular challenges: it was the subject of complicated discussions designed to delay its adoption, water down its legal and political scope and postpone indefinitely the fundamental rights of the indigenous peoples.

69. There were substantive differences between Governments and indigenous peoples regarding basic concepts and interpretations of such provisions as the right to self-determination, exercise of the collective right to ownership of lands, permanent sovereignty over natural resources, legal protection of cultural and intellectual property, recognition of the right of indigenous peoples to define themselves as peoples, demilitarization of indigenous land, and the adoption of a code of conduct that would govern the activities of transnational corporations.

70. It was clear that States had little interest in solving the problems facing the world's indigenous peoples. He urged the Commission to amend its resolution 1995/32 so as to give the working group a broader and more precise mandate that would enable it to examine the provisions in depth and approve them with a view to their speedy adoption by the General Assembly before the end of the International Decade. His own organization, like other NGOs, had made some constructive comments and amendments, and he urged the Commission to ensure that the documents in the E/CN.4/1998/NGO series bearing the numbers 31 to 35 were submitted to the next session of the working group.

71. Mr. BULL (International Organization of Indigenous Resource Development), speaking also on behalf of the Four Cree Nations of Hobbema, the Paul Nakoda Nation and the Confederacy of Treaty 6 First Nations, said that the question of a permanent forum for indigenous peoples within the

United Nations system should be finalized during the current year and submitted to the Economic and Social Council for its consideration and approval; referral back to the working group would be contrary to the call for its early establishment.

72. He was very concerned that the indigenous unit had become a victim of the United Nations restructuring process and urged the High Commissioner, in her capacity as Coordinator for the International Decade of the World's Indigenous People, to support an allocation of increased resources to the unit; called on all the Member States to support such an increase; and called on the Commission to recommend that the mid-term review of the International Decade should commence forthwith in accordance with General Assembly resolution 50/157.

73. As for the draft declaration on the rights of indigenous peoples, it should be adopted without amendments. Paragraph 4 in the report of the working group (E/CN.4/1998/106) should be deleted, because it no longer reflected the current status. As the representatives of the indigenous peoples had feared, States were attempting to weaken the current text of the draft declaration. Retrograde proposals were being made by States that had been involved for years in the working group. Annexes I and III should not have been attached to the report because they were discussed at informal sessions on which no records had been kept. His organization thus recommended that the Commission should direct the working group to conclude its activities during the current year, approve the draft declaration as it stood and submit it to the Economic and Social Council for consideration and approval.

74. His organization was looking forward to the forthcoming study on treaties, agreements and other constructive arrangements between States and indigenous populations but was concerned about rumours that the new multilateral agreement on investments had a clause stating that it would override any and all existing treaties. Consequently, as a follow-up to the study on treaties, he suggested that the Commission should propose the holding of a world conference on indigenous treaties and a United Nations meeting of experts to focus on the current status of such treaties.

75. Mr. LYNGE (Inuit Circumpolar Conference) said that, like the other organizations of indigenous peoples, the Conference had accepted the current text of the draft declaration on the rights of indigenous peoples as the minimum international standard required for the protection and promotion of the fundamental rights of those peoples. The declaration had been 11 years in the drafting, and he requested the Commission to adopt it as it stood.

76. His organization regarded the establishment of a permanent forum for indigenous peoples as an effective realization of the principles of the Charter of the United Nations, and saw no obstacle to it being established within the framework of the Economic and Social Council and composed of equal numbers of representatives of indigenous peoples and Governments.

77. Mr. Selebi (South Africa) resumed the Chair.

78. Ms. SKUM (World Council of Churches) said the Commission had persistently broken new ground within the United Nations structure through the

activities of the Working Group on Indigenous Populations to which the representatives of indigenous communities had had access in a way not possible elsewhere. Such access, albeit much more limited, had also been possible within the open-ended inter-sessional working group on the draft declaration on the rights of indigenous peoples. The participation of those representatives constituted an enormous contribution to the work of the United Nations in terms of both financial and human resources.

79. The establishment of a permanent forum for indigenous peoples was a matter that needed to be expedited. It must be a partnership, not a concession by Governments to pressure from indigenous peoples. She endorsed the proposal by the Government of Denmark that an ad hoc inter-sessional group be established to explore the mandate, structure and implementation of the permanent forum. The indigenous peoples should be fully represented in that process.

80. Mr. PEREZ (American Association of Jurists), having welcomed the Commission's decision to add to its agenda an item specifically devoted to indigenous issues and stressed the importance of involving representatives of the indigenous peoples in decision-making on those issues at all levels, said he hoped that the Commission would decide to set up an ad hoc group composed of representatives of indigenous peoples and Governments to consider all aspects of the establishment of a permanent forum for indigenous people. It should also renew the mandate of the open-ended inter-sessional working group to elaborate a draft declaration on the rights of indigenous peoples.

81. While it was encouraging to note that some slight advances had been made towards the legal recognition of the rights of indigenous peoples in Mexico, Guatemala, Colombia and Ecuador, the real-life conditions of those peoples continued to give grounds for serious concern. In most Latin American countries, the economic and social rights of indigenous populations were being constantly eroded by the privatization policies increasingly espoused by Governments. Their rights were being violated by both national and transnational companies and their leaders were being assassinated, tortured and subjected to intimidations and threats by paramilitary groups. All initiatives to encourage dialogue and negotiations between the Governments of those countries and the indigenous peoples themselves should be encouraged.

82. In particular, his organization considered that the Commission should continue to study the human rights situation in Guatemala as a means of strengthening the peace process in that country, in the interests of the indigenous peoples who accounted for the majority of the population.

83. Mr. ARIAS (International Work Group for Indigenous Affairs) said that representatives of indigenous organizations from Central and South America had played an active part in all stages of the discussion on the establishment of a permanent forum for indigenous people within the United Nations system. On the basis of the various meetings and discussions, his organization recommended that the Commission should establish an ad hoc group to draw up a draft mandate for the permanent forum and to report to it at its fifty-fifth session, the possibility of referring the matter to the Economic and Social Council for consideration and adoption being borne in mind.

84. As for the draft declaration on the rights of indigenous peoples, he recalled that the General Assembly had stated that the adoption of such a declaration was a major objective of the International Decade of the World's Indigenous People. A general evaluation of the progress made in the framework of the Decade and in implementation of the relevant General Assembly resolutions, with particular reference to the draft declaration, should be undertaken with a view to meeting the expectations of the world's indigenous people before the year 2004.

85. Ms. DEGAWAN (Asian Buddhist Conference for Peace) said that, five years after the Vienna Conference, little had changed for the world's indigenous peoples in terms of the recognition of their basic rights. In fact, the situation of many of them was rapidly deteriorating because of the global trend towards liberalization of trade. In her own country, the Philippines, the enactment of a new law supposedly recognizing the rights of indigenous peoples was seen by the people concerned as yet another means of facilitating exploitation of the resources of their ancestral lands. Many indigenous people were being forced off their land without any provision for relocation or compensation, the Government disclaiming all responsibility because the projects in question were being operated by private companies.

86. It was thus imperative that the United Nations should adopt the long-delayed international declaration on the rights of indigenous peoples and should resist the efforts of certain Governments to redraft the text of the declaration in terms more favourable to their policies of assimilating the indigenous peoples.

87. The proposal for a permanent forum for indigenous peoples within the United Nations system was another issue that required urgent action by the Commission. The Government of Denmark had suggested that an ad hoc body be established to prepare proposals for consideration by the Commission, at its next session, on the basis of recommendations by Governments, United Nations bodies and indigenous peoples. In that connection, she urged the Commission to ensure that the representatives of the indigenous peoples were given the possibility of participating in all the discussions relating to their survival.

88. Mr. HUILCAMAN (Anti-Slavery International) said he wished to draw attention to the report of the second workshop on a permanent forum for indigenous people within the United Nations system held in accordance with Commission resolution 1997/30 (E/CN.4/1998/11 and Add.1) and, more particularly, to chapter IV of the addendum containing the declaration of the first international indigenous conference on that topic held at Temuco, Chile, in May 1997.

89. His organization fully associated itself with that declaration and with the views reflected in paragraph 34 of the first part of the report (E/CN.4/1998/11) that the Commission should, at its current session, consider how to further the process of establishing the permanent forum. In that connection, he expressed appreciation of the suggestion by the Government of Denmark that an ad hoc working group be set up for the purpose and hoped that other Governments, and in particular the Government of Chile, would support that initiative.

90. Mr. LORD (Canada) said that, as a concrete expression of the high priority his Government attached to the adoption of a draft declaration on the rights of indigenous peoples, his delegation would introduce a resolution authorizing the open-ended inter-sessional working group to meet for a period of 10 working days prior to the Commission's fifty-fifth session.

91. The working group's third session might be regarded as a success, but a good deal of work remained to be done. In particular, the working group would have to address the amendments to articles 15 to 18 proposed by several States. To sustain the positive momentum already achieved, his delegation would continue its dialogue with indigenous officials and leaders in Canada in preparation for the next session of the working group.

92. His delegation would also be a sponsor of the annual combined resolution on the Working Group on Indigenous Populations and the International Decade on the World's Indigenous People. It welcomed the Working Group's ongoing consideration of the themes of the Decade and had endeavoured to make useful practical contributions to the consideration of the theme of "Health" by providing an opportunity for indigenous experts from Canada to participate in the Working Group and to share their experiences and expertise. It looked forward to taking up the Decade theme of "Education and Language" at the next session of the Working Group and, in that connection, suggested that the Office of the High Commissioner, and the Working Group might consider organizing joint exhibits on education issues. His delegation also supported the use of voluntary funds to ensure the participation in education issues of experts from indigenous communities around the world.

93. In cooperation with indigenous organizations, his Government had developed a national plan of action, with a strong orientation towards education and communications, to commemorate the Decade. The implementation of the various components of the plan was currently in preparation.

94. Recalling that partnership-building was one of the Decade's most important elements, he informed the Commission that his Government had, in January 1998, launched a plan entitled "Gathering Strength - Canada's Aboriginal Action Plan" and had presented a Statement of Reconciliation formally acknowledging and regretting historic injustices experienced by indigenous people and apologizing to the victims of sexual and physical abuse in the residential school system.

95. To underscore that commitment, the Canadian Minister of Indian Affairs and Northern Development had announced that the Government was committing 350 million Canadian dollars to support the development of community-based healing as a means of dealing with the legacy of abuse. Also in January 1998, a former Grand Chief of the Federation of Saskatchewan Indian Nations had been appointed counsellor for international indigenous issues.

96. Ms. RYKOVA (Russian Federation) said that the numerous indigenous peoples living in her country's territory enjoyed the full right to participate in public life and in the activities of national and local organs of government. Her delegation attached great importance to the draft declaration on the rights of indigenous peoples being elaborated within the

working group set up in accordance with Commission resolution 1995/32 and welcomed the progress achieved as well as the growing mutual understanding between States and representatives of indigenous peoples.

97. Only a spirit of partnership could bring the positions held on the more complex aspects of the draft closer together, and her delegation therefore associated itself with the High Commissioner's appeal for an open dialogue and with the view that the draft declaration reflected the recognition of a new generation of rights.

98. On the issue of a permanent forum, she noted the positive results of the Santiago Workshop on the subject and endorsed the Secretary-General's observations concerning the very restricted scope of United Nations activities relating to indigenous peoples. In that connection, her delegation considered that the time was ripe to embark upon the elaboration of a mandate for a permanent forum, but saw no need to refer that task to an expert body of any kind.

99. Stressing her Government's support for the programme of activities for the International Decade of the World's Indigenous People, she outlined the work being done by the national organizing committee set up in her country in that regard. So far as the legal protection of the indigenous peoples in the North of the Russian Federation was concerned, more than 150 Acts and other legal norms had been adopted since 1990. The system of State support for indigenous areas had recently been reformed, as had the system of pre-school and primary school education in those areas. A decision to lower the retirement age for indigenous people was to be taken in the current year and a number of other laws designed to promote the interests of indigenous people were under consideration at both the federal level and the level of the Federation's constituent entities.

The meeting rose at 1 p.m.